IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE NO.532 of 2004
IN
EXECUTION APPLICATION NO.93 OF 2004
IN
SUMMARY SUIT NO.1453 OF 1999

M/s.Marine Contaainer Services
(India) P.Ltd. ..Plaintiffs

Vs.

1. Vora & Vora and Ors. ..Defendants

Mr.Ajay Fernandes with Mr.J.Vyas i/b Bilawala & Co. for the plaintiffs

Mr.B.B.Parekh for defendant no.1 and 2

Mr.Virag V.Tulzapurkar with Mr.A.Joshi for defendant no.4

Mrs.A.D.Athavale Asst.Official Liquidator present (i.e. for defendant no.3 who is declared as insolvent)

CORAM: S.U.KAMDAR, J
DATE : 11TH APRIL 2005

P.C.:

. The present notice is taken out under Order XXI Rule 37 of the Code of Civil Procedure Code for execution of decree by way of arrest. Admittedly, respondent no.2 to 5 are the trustees of the said trust. The decree is passed against the trust and the decree is sought to be executed against the trustees by their arrest. It is an admitted

position that the application for execution was made by way of attachment and sale of the personal properties of the defendant no.2 to 5. However, the said execution of decree has been stayed in view of the fact that the decree itself in paragraph 29 as well as in paragraph 44 of the said Judgment clarifies that the decree is only against the trust and not against the trustees in their individual capacity. When the properties of the individual trustees cannot be executed, it is not possible to execute a decree against the trustees by way of arrest under Order XXI Rule 21 when the decree is not against trustees person. In view thereof, application is rejected. Notice is dismissed.